

DEPARTMENT OF STATE REVENUE

**LETTER OF FINDINGS NUMBER: 00-0141P
Income Tax
Calendar Year Ended 1998**

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUE(S)

I. Tax Administration – Penalty

Authority: IC 6-8.1-10-2.1(d); 45 IAC 15-11-2

Taxpayer protests the penalty assessed.

II. Tax Administration – Interest

Authority: IC 6-8-1-10-1

Taxpayer protests the interest assessed.

STATEMENT OF FACTS

Taxpayer protests the penalty assessed for the year ended December 31, 1998. Taxpayer filed its original return on October 15, 1999 with a payment of \$2,724 in tax due. The late payment generated a ten percent (10%) penalty and updated interest.

Taxpayer also protests the interest. Liability number 98-0216023 was issued on December 13, 1999 for a balance due of \$75.48 because the taxpayer failed to include the late payment penalty and updated interest on its return.

I. Tax Administration – Penalty

DISCUSSION

Taxpayer protests the penalty assessed because the apportionment data was unavailable until September 1999. Taxpayer did not anticipate that it would have activity in Indiana in 1998. Not until the apportionment data became available was it discovered that taxpayer had a filing requirement in Indiana. Taxpayer timely filed its return on October 15, 1999.

The penalty was assessed because less than ninety percent (90%) of the expected tax due was paid by the original due date.

IC 6-8.1-6-1 clearly states that at least ninety percent (90%) of the tax that is reasonably expected to be due must be paid on or before the due date or penalties may be imposed for failure to pay the tax. One hundred percent (100%) of the tax due was paid after the due date, which incurs a late payment penalty.

Taxpayer has not provided reasonable cause to allow a waiver of the penalty. Ninety percent of the tax due was not paid by the due date of the return.

FINDING

Taxpayer's protest is denied.

II. Tax Administration - Interest

DISCUSSION

Taxpayer protests the interest assessed on Liability 98-0216023.

The department has no authority to waive interest.

The tax payment in the amount of \$2,724 was not made until October 15, 1999.

FINDING

Taxpayer's protest is denied

CONCLUSION

Taxpayer's protest is denied for Issues I. and II.